

DEC 22 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON

U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

MANUEL GARCIA-GARCIA,

Petitioner,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

No. 02-72661

Agency No. A29-277-881

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted November 7, 2003**
Pasadena, California

Before: HALL, O'SCANNLAIN, Circuit Judges, and BROWN, District Judge.***

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

*** The Honorable Anna J. Brown, United States District Judge for the District of Oregon, sitting by designation.

Manuel Garcia-Garcia petitions for review of a final order of removal by the Board of Immigration Appeals. The order summarily affirmed an immigration judge's ("IJ") decision denying Garcia-Garcia's applications for cancellation of removal and voluntary departure. The IJ found Garcia-Garcia statutorily ineligible for either form of relief because he admitted violating the essential elements of a crime of moral turpitude, 42 U.S.C. § 408(a)(7)(B) (obtaining any benefit through false representation of a social security number). *See* 8 U.S.C. §§ 1101(f), 1229b(b)(1)(B), 1229c(b)(1)(B). Garcia-Garcia does not challenge these rulings on appeal.

Rather, Garcia-Garcia alleges that the admissions did not comport with the relevant procedures as laid out in *Matter of G-M-*, 7 I. & N. Dec. 40, 70 (1956). Namely, Garcia-Garcia claims that he did not comprehend 42 U.S.C. § 408(a)(7)(B) as it was read and paraphrased to him, thus violating the requirement that "[a]n adequate definition of the crime, including all essential elements, must first be given to the alien. ... [and] must be explained in understandable terms. *Matter of G-M-*, 7 I. & N. Dec. at 70.

The IJ made a specific factual finding that Garcia-Garcia "did understand the elements" of the crime, which we must uphold "unless any reasonable adjudicator would be compelled to conclude to the contrary." 8 U.S.C. §

1252(b)(4)(B). Strong evidence supports this finding. After the statute was explained to Garcia-Garcia, the government asked if he understood it, to which he replied, “Yes, I understand.” Garcia-Garcia argues that his next comment suggested the contrary: “But when—but when I used that number, I didn’t know it was this.” Yet the IJ reasonably concluded this indicated that Garcia-Garcia was ignorant of the statute at the time he violated it, rather than that he failed to comprehend the explanation of the statute. A later instance when Garcia-Garcia asked the government to repeat a relatively straightforward question does not directly bear on Garcia-Garcia’s understanding of the statute. It more likely represents a temporary translation difficulty often present in such proceedings, and is thus insufficient to disturb the IJ’s factual finding.

DENIED.